

**BEFORE THE BOARD OF DESIGN  
REVIEW FOR THE CITY OF  
BEAVERTON, OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
4755 SW Griffith Drive  
P.O. Box 4755  
Beaverton, OR 97076

IN THE MATTER OF A REQUEST FOR DESIGN  
REVIEW THREE APPROVAL FOR DEVELOPMENT  
OF AN APPROXIMATELY 152,300 SQUARE FOOT  
RETAIL BUILDING, A 4,265 SQUARE FOOT OFFICE  
RETAIL BUILDING, A 9,200 SQUARE FOOT RETAIL  
BUILDING, AND ASSOCIATED PUBLIC AND  
PRIVATE STREETS, PARKING WITHIN OPEN LOTS  
AND A PARKING GARAGE (TOWN SQUARE TOO -  
WAL MART). TOWN SQUARE TOO, LLC,  
APPLICANT.

) ORDER NO. 1871  
) DR2005-0068 ORDER APPROVING REQUEST WITH  
) CONDITIONS.

This matter came before the Board of Design Review on May 2, 3, and 25, and June 1, 2006, on a request for Design Review Three approval for development of an approximately 152,300 square foot retail building, a 4,265 square foot office/retail building, a 9,200 square foot retail building, and associated public and private streets, parking within open lots and a parking garage, covered and uncovered outdoor sales areas, landscaping, lighting, and off-site-storm drainage, street, and traffic signal improvements. The development site is generally located at 11520 SW Barnes Road, located south of Barnes Road, north of US Highway 26, and west of SW Cedar Hills Boulevard and is more specifically identified as Tax Lot 1700 on Washington County Assessor's Map 1S103A. The affected parcel is zoned Washington County zone: TO-RC; as shown on the Cedar Hills - Cedar Mill

Community Plan (CH-CM CP) Transit Oriented - Retail Commercial and is approximately 9.3 acres in size.

Pursuant to Ordinance 2050 (Development Code), Section 50.45 and 50.55 through 50.58, the Board of Design Review conducted a public hearing and considered testimony and exhibits on the subject proposal.

The Board, after holding the public hearing and considering all oral and written testimony, adopts the Staff Report dated April 25, 2006, as amended and the findings contained therein, as well as staff memoranda from John Osterberg and Randy Wooley, dated May 11, 2006, and a staff memorandum authored by John Osterberg and Jim Duggan dated May 11, 2006, as designation of the criteria applicable to this request, and for findings of fact and conclusions of law under those criteria.

In addition to the above findings the Board makes the following findings as to more specific issue areas which arose in writing or in testimony.

1. Intent and purpose sections of the County's TO:RO district are not approval criteria.

During the public hearing process, opponents asserted the project fails to comply with the county code's purpose and intent sections for transit-oriented zoning districts, WCD 375-1. However, as city staff observed—and as counsel for Save Cedar Mills admitted at the May 2<sup>nd</sup>, public hearing—purpose statements do not constitute approval criteria.

This conclusion is consistent with a long-line of Oregon land use cases which instruct that zoning ordinances may contain aspirational goals and policies which

provide broad guidance, and then follow those broad goals with specific, mandatory approval criteria against which the governing body must review a request for land use permits. The Board agrees with the staff conclusion and the opponents' admission and concludes the county's purpose statements summarize the criteria, and are not themselves criteria. At any rate, the Board observes that since the project complies with the *actual* criteria for transit-oriented development, this compliance accords with the intent and purpose of the county zoning district.

2. The city has provided due process in deferring compliance with access spacing requirements on the roadways proximate to the propose store.

Project opponents asserted the application fails to satisfy Washington County Code section 501. Specifically, that deferring compliance with the access spacing standards within that section violates the public's due process rights. At the outset, the Board observes the assertion appears somewhat nuanced. WCDC section 501 regulates public facility and service requirements, and contains a subsection regulating access to county roads. Staff determined—and the Board agrees—that the city's development code sets forth applicable city public facility and service requirements under BDC chapter 10. Staff determined, too, that the city code does not regulate access to county roads for lack of jurisdiction over those roads. Therefore, the access standard of WCDC section 501 will apply.

The result is that the Board applies the city's public facility and service requirements, and as to the county road access the county will apply the county standards. Under this framework we scrutinize the opponent's argument as

touching only the access standard subsection, WCD 501.8.5. The Board's conditions of approval require the applicant to obtain a permit from Washington County to vary from stated access spacing standards. Oregon law provides it is reasonable and acceptable for one reviewing agency (here, the city) to require an applicant to obtain *another* agency's grant of authority. The justification for the city allowing the county to review its own access permit is identical to allowing a statewide agency to approve its own permit. It is well established that approval conditions requiring state agency approval are permitted without determining whether such approval is feasible, because the state agencies have the necessary expertise and established standards and procedures to determine if the standards are met.

The county provides a level of public review and participation which the Board believes guarantees due process rights to notice and an opportunity to be heard. Both the approval of a private access exception under WCD 501-8.5(B)(4) and the access management plan described in WCD 501-8.5(C) are subject to a Type II public review process. This process provides for public notice, a comment period, and an appeal right from an administrative decision. These provisions will be available for interested persons to employ at a later date, should they wish to be involved with the access management process. Accordingly, the Board's decision does not impede due process rights.

3. The project complies with the City and County transportation system plans in terms of pedestrian districts and intersection lanes

Project opponents mounted two challenges to the proposed store based upon inconsistencies with various transportation plans applicable to the project. First, they assert the project contravenes requirements for a pedestrian district, as that term is set forth in the Metro Regional Transportation Plan (RTP), the County 2020 Transportation plan (2020 Plan), and the City's Transportation System Plan (TSP). Second, they assert the number of vehicular travel lanes on CHB and Barnes Road is inconsistent with the 2020 Plan and the TSP.

As stated by the city's transportation engineer in Exhibit 2.29, both the city and county have comprehensively planned for a pedestrian district in the vicinity of the CHB-Barnes intersection as a larger part of each jurisdiction implementing Metro's RTP. However, neither jurisdiction has adopted applicable approval criteria for such a district. The county's Comprehensive Plan speaks of pedestrian districts as places to " . . . reflect an urban design pattern where walking is a safe, convenient and interesting travel mode. These areas will be characterized by buildings oriented to the street and boulevard-type street design features such as wide sidewalks with crossing amenities at some locations, special lighting, benches, bus shelters, awnings and street trees." Inasmuch as the guideline provides a basis for discussion, the Board feels the application possesses these characteristics. However, as a legal basis this plan guideline is not specific and carries no implementing regulations. Therefore, the guideline is not an applicable standard for development approval.

Indeed, the 2020 Plan requires this conclusion. That plan clearly states on page 1 that:

Policies and strategies in this Plan which relate to the use and development of land for transportation facilities and improvements are implemented in the Community Development Code, and no person requesting a development permit . . . shall be required to address, consider, or implement any policy or strategy contained in the Transportation Plan unless required by the [WCDC].

The staff report and memorandum findings, as well as the findings identified in this Order, demonstrate the application complies with the city and county development code sections for transportation.

Winterbrook Planning challenged the size of the CHB-Barnes intersection. Winterbrook asserts the intersection exceeds the legally-allowable number of involved lanes. For the reasons that follow, this assertion misconstrues the applicable law.

Tab 3 of the Wal Mart binder dated May 17, 2006, presents a memorandum by Don Odermott which addresses the number of lanes. The Board concludes the Odermott memo correctly identifies that the lane configuration charts in the TSP identify the number of street lanes which are permissible *between* intersections. The TSP does not regulate the number of lanes, including turn-only lanes, at each leg of an intersection. This conclusion, too, is noted in the county's 2020 Plan:

[t]he number of lanes required to accommodate turning movements at intersections[,] and interchanges will be determined through traffic analysis conducted during the transportation project development process. This project-level decision identifies physical improvements

necessary at or near intersections and interchanges to safely and efficiently move toward attaining the system capacity identified in the Plan.

2020 Plan, Table 6: Functional Classification Design Parameters, pg. 29, fn.1. Therefore, the applicant's mitigation measures (in particular, proposed new lanes) proposed for the CHB-Barnes intersection are not capped by the number of lanes allowed between intersections.

4. The applicant's revised pedestrian plaza designs satisfy the approval criteria

During questions and comments from this Board on its continued hearing date of May 25<sup>th</sup>, we identified design and landscape shortcomings in the proposed buildings as submitted for review. The applicant submitted further narrative dated May 30, 2006 in a document entitled, "Wal Mart's Response to Plaza Design and Landscaping Within Extended Submittal Period," which presented revised designs, specifically shown on Sheet's PL 2.0, and plan Exhibit's A through C. reflecting a desired softening effect on the building's mass, amplification of the features associated with the pedestrian plazas, and further treatments of the iron gate and fence facing Barnes Road which serves as the access for emergency vehicles such as ambulance and fire response.

These materials demonstrate compliance with BDC 60.05 Design Guidelines for building design and orientation in the following particulars. In response to the BDR's previous concern that the pedestrian plazas, and general pedestrian treatment of streetscapes, did not have suitable pedestrian friendly design, the May

30, 2006 revisions illustrate pedestrian amenities in the form of decorative basalt rock outcroppings as a sculptural element, with surrounding benches, forming the nucleus of five (5) distinct plaza nodes. In addition, each of the nodes feature landscape screening in raised planters, overhead vine trellis, or as landscape beds. from the landscape also visually separates nearby auto traffic and partially encloses the plazas providing a sense of pedestrian refuge and visual character.

With regard to proposed Retail Building 2, this Board had previously noted a lack of landscape treatment to provide softening of a potentially harsh hardscape proposal with little shade. The revised plan of May 30, 2006, illustrates the addition of two landscape trees near the south elevation, and additional landscape planters along the building's facia on the north and south elevations, in addition to the pedestrian scale lighting and overhead awnings and canopies previously proposed. Pedestrian node #5, containing additional landscaping and tree canopy, is placed in close proximity to the east corners of the building, for additional landscape buffering.

With regard to the western elevation of Retail Building 1, this Board concludes that the landscape treatment at the northwest corner of the building is adequate, in relation to the proposed office building due to the amount of landscape plantings, whereby a minor pedestrian plaza node is proposed, although not specifically identified as a pedestrian plaza on Sheet PL 2.0.

With regard to the west elevation of Retail Building 1, this Board concludes that although pedestrian amenities are minimal, the design is adequate for its purpose as the face of the parking garage, and that additional pedestrian friendly



design elements, such as a sidewalk, are unnecessary due to the proposal's design and layout; the west building elevation would experience minimal pedestrian use because there no pedestrian destinations to access from or along the west side of the building. Therefore, the Board concludes that the function of the proposed private street along the west property line, was essentially that of a driveway to a parking lot, and would not need to function as a pedestrian way as part of a private or public street. Any need for pedestrian access to the west was met by the proposal for a sidewalk along the west side of the street and by a striped pedestrian walkway internal to the parking garage. The Board concludes that the drawings and plans contained within the applicant's May 30, 2006 submittal include the amount, size, and appropriate functionality to provide a pedestrian friendly design, with regard to landscape-plaza features and with regard to building architecture and lighting, for the site. The Board concludes design meets the applicable Building Design and Orientation Guidelines of City Development Code Sections, cited on pages DR 3 through DR 27 in the Staff Report of May 25, 2006, as Sections 60.05.35 through Section 60.05.50, and Washington County Development Code Sections 431-4 and 431-5.3.C.3, C.4, and C.6 as applicable to Transit Oriented Design; Streetscapes for Pedestrians.

5. Within the Cedar Hills Boulevard-Barnes Road intersection improvements, pedestrian island, adjacent to the dual right turn lanes provide adequate pedestrian conveyance without additional pedestrian refuge areas placed equidistant between curbs of the widened street sections.

The Board received information from public testimony that questioned the ability of pedestrians to cross Barnes Road and CHB during the time allowed by the traffic signal timing. These opponents invited the city to require, as a condition, that additional pedestrian refuges be constructed in the middle of the Barnes Road and CHB rights-of-way, between the two directions of travel, to provide a refuge for pedestrians unable or unwilling to transit the entire crossing on one green signal phase.

Opponents did not suggest particular criteria which would suffer from compliance without the refuges, and the Board cannot speculate as to which criteria may be implicated. The Board concludes that a pedestrian refuge in the traffic median of abutting streets would be desirable. However, the Board finds that such additional refuges are not supported by traffic engineering standards. The Board also noted that traffic engineering standards establish that a pedestrian crossing speed through an intersection averages 4 feet per second. The Board finds that due to the need to rely on traffic engineering standards, and due to the findings of city, county, ODOT, and applicant experts that refuges in the middle of Barnes Road and CHB may actually put pedestrians in harms way by stranding them in the midst of the roadway, that pedestrian refuges could not be supported. The Board is satisfied by the opinion of these agencies and individuals that pedestrian islands proposed by the applicant at the southwest, southeast, and northeast corners of the intersection, will adequately and safely facilitate pedestrian movement across the intersection components.

The suggested additional refuges also suffer from feasibility constraints. Such refuges are prone to damage from sideswiping vehicles. Too, a pedestrian-control for the crosswalk located in the middle of the intersection would, by implication, command a double-sequence of green lights, adding to the length of time traffic is stopped in conflicting directions.

Therefore, **IT IS HEREBY ORDERED that DR2005-0068 is APPROVED**, subject to the following conditions:

**Prior to issuance of the site development permit, the applicant shall:**

1. Provide primary emergency access, meeting Tualatin Valley Fire & Rescue (TVF&R) access requirements, between SW Barnes Road and the parking lot aisleway. Such access shall be shown on the site development plan submittal. (Site Development Div./JJD)
2. Provide evidence of approval by Washington County for the primary emergency vehicle access to the site from SW Barnes Road as a configured and approved by the TVF&R Fire Marshall. (Site Development Div./JJD)
3. Provide construction drawings for the following capacity improvements: (RW/Transportation)
  - a) New traffic signal at the intersection of Barnes Road and 117<sup>th</sup> Avenue.
  - b) New traffic signal at the intersection of Barnes Road and the site access roadway.
  - c) Interconnection of traffic signals along Barnes Road between Cedar Hills Boulevard and 117<sup>th</sup> Avenue, in accordance with a plan approved by the County Engineer.
  - d) New traffic signal at the intersection of Cedar Hills Boulevard and the eastbound ramps of Highway 26, including interconnection with the existing traffic signals along Cedar Hills Boulevard from Butner Road to the westbound off-ramp from Highway 26.
  - e) Widening of Butner Road to provide a separate eastbound left-turn lane. The City Traffic Engineer may delete this condition if the State Traffic Engineer determines that the widening of Butner Road is not needed for coordination of traffic signals in accordance with ODOT standards or if Washington County does not approve permits to widen Butner Road.
  - f) Widening of Barnes Road to provide a minimum of five lanes plus bike lanes between Cedar Hills Boulevard and 117<sup>th</sup> Avenue.

- g) Sidewalk with a minimum width of 10 feet along the south side of Barnes Road along the site frontage.
- h) On the westbound approach of Barnes Road to the site access roadway, additional widening to provide two left-turn lanes with a minimum storage length of 400 feet in each left-turn lane.
- i) On the eastbound approach of Barnes Road to Cedar Hills Boulevard, additional widening to provide two right-turn lanes with one lane extending to the site access roadway and with the second lane having a minimum storage length of 200 feet.
- j) On the westbound approach of Barnes Road to Cedar Hills Boulevard, additional widening to provide two left-turn lanes, one through lane and one through/right-turn lane.
- k) On the southbound approach of Cedar Hills Boulevard to Barnes Road, widening to provide two southbound lanes plus a bike lane plus a left-turn lane having a minimum storage length of 140 feet.
- l) On Cedar Hills Boulevard north of Barnes Road, widening to provide two northbound lanes plus a bike lane for a minimum of 300 feet north of Barnes Road plus transition to the existing roadway.
- m) On Cedar Hills Boulevard south of Barnes Road, widening to provide three southbound lanes, two northbound left-turn lanes extending to the westbound off-ramp from Highway 26, two northbound through lanes, the existing northbound right-turn lane, and bike lanes.
- n) On southbound Cedar Hills Boulevard south of Barnes Road, revisions to place the gore point of the westbound on-ramp to Highway 26 a minimum of 225 feet north of the stop bar for the signal at the intersection with the westbound off-ramp from Highway 26.
- o) On Cedar Hills Boulevard between Butner Road and the eastbound ramps to Highway 26, widening to provide a northbound right-turn lane.
- p) On the eastbound off-ramp from Highway 26 at Cedar Hills Boulevard, widening to provide a right-turn lane with a minimum storage length of 300 feet.
- q) On the west side of Cedar Hills Boulevard between Barnes Road and the westbound ramp to Highway 26, a sidewalk with a minimum width of 10 feet in accordance with the concept plan shown in the application.
- r) Grading to provide for future construction of a multi-use pathway to a future under-crossing of the westbound on-ramp to Highway 26, in accordance with the concept plan shown in the application.
- s) Revisions to striping, signing, signals and sign bridges as necessary to accommodate the capacity improvements required in Conditions 3.a through 3.r.
- t) For each of the above improvements, the design shall be consistent with the design requirements of the road authority having jurisdiction of the roadway and shall include illumination to the standards of the road authority having jurisdiction.

- u) The existing traffic signals at the intersection of Cedar Hills Boulevard and Barnes Road shall be modified to include pedestrian countdown signals.
  - v) All new traffic signal installations shall include pedestrian countdown signals.
  - w) Improvements to the intersection of Cedar Hills Boulevard and Barnes Road shall include channelizing islands for the right turn lanes in accordance with the concept plan submitted by PacLand (PacLand Exhibit I-1.0 dated 05-11-06).
- 4. Provide construction drawings for the following safety improvements in the vicinity of the intersection of Barnes Road and Highway 217, in conformance with the design standards of ODOT and Washington County:
  - a. Widening to provide an additional westbound lane on Barnes Road between Baltic Avenue and the Highway 217 ramp.
  - b. On the Highway 217 ramp to Barnes Road, extension of the northbound right-turn lane to provide 650 feet of storage length.
  - c. Revisions to striping, signing, signals and sign bridges as necessary to accommodate the safety improvements required in Conditions 4.a through 4.b.
- 5. Provide all Synchro and SimTraffic computer files that analyzed operation conditions under the 'existing', 'baseline', 'project', and 'project with mitigation' scenarios used in the most recent revision of the Traffic Impact Analysis. (RW/ Transportation)
- 6. Provide updated traffic count data for weekday morning and afternoon peak periods at the intersection of Highway 217 and Barnes Road. The data shall be collected more than 90 days after the opening of a new westbound on-ramp to Highway 26 from the intersection. Based on the new data, submit a revision to the TIA showing how the revised data has changed the requirements for mitigation at the intersection. Based on the revision to the TIA, the State Traffic Engineer may reduce the improvements required by Condition #4 provided that the reduced requirements will provide anticipated 2007 traffic operations in conformance with ODOT capacity and safety standards. (RW/ Transportation)
- 7. Provide plans for distinctive pedestrian access and crossing areas within the garage area. (RW/ Transportation)
- 8. Provide evidence that right of way has been dedicated as needed to accommodate the improvements required by Conditions 3 and 4, and that the right-of-way dedications have been accepted by each appropriate road jurisdiction. (RW/ Transportation)
- 9. Revise site plans to show a raised curb or other barrier approved by the City Traffic Engineer to prevent left turns to or from the site access road for a distance of 300 feet south of the Barnes Road intersection. (RW/

Transportation)

10. Provide evidence that new street intersections will meet City and County requirements for intersection sight distance. No obstructions, including but not limited to parking, shall be placed within the driveway intersection sight vision areas except as provided by City ordinance. New and existing driveway intersections shall meet sight distance criteria in the City's Engineering Design Manual for the design speed of the roadway. (RW/ Transportation)
11. Provide plans that show 13 covered and lighted long term bike parking spaces and 13 short term spaces for the Wal-Mart building. Show 2 covered and lighted long term bike parking spaces and 2 short term spaces for the small retail building. Show 2 covered and lighted long term bike parking spaces and 2 short term spaces for the office building. (RW/ Transportation)
12. Contract with a professional engineer to design and monitor the construction for any work governed by Beaverton Municipal Code 9.05.020, as set forth in Ordinance 4303 (City Engineering Design Manual and Standard Drawings), Beaverton Development Code (Ordinance 2050, 4010 +rev.), the Clean Water Services District Design and Construction Standards (February 2004, Resolution and Ordinance 2004-009), and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. (Site Development Div./JJD)
13. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions as set out in Ordinances 2050, 4010+rev., and 4303; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div./JJD)
14. Have the ownership of the subject property guarantee all public improvements, storm water management (quality and quantity) facilities, site grading, private streets, and common driveway paving by submittal of a City-approved security. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for amount, equivalent to 100 percent or more of estimated construction costs. (Site Development Div./JJD)
15. Provide proof of lot consolidation for all the parcels into one fee-simple, deeded lot along with proof of quit-claiming or extinguishment of easements and other ownership encumbrances that conflict with construction, or otherwise provide plans showing that any area within the development remaining under separate ownership, without a land division approval by the City: (1) shall have each lot independently served by utility systems as required by the City Engineer and City Building Official per City standards.

(2) shall construct all site storm and sanitary sewer plumbing serving more than one lot or crossing onto another lot, to public system requirements per City standards, and (3) shall not consider sheet flow of surface water from one lot's paved area to another lot's paved area as a direct plumbing service. (Site Development Div./JJD)

16. Submit any required off-site easements and right of way dedications, executed and ready for recording, to the City after approval by the City Engineer for legal description of the area encumbered and City Attorney as to form. (Site Development Div./JJD)
17. Have obtained the City Building Official's approval of the proposed site utility plan for private plumbing needed to serve the development including private fire suppression systems, backflow prevention measures, and regulated utility service locations outside the proposed building pads. (Site Development Div./JJD)
18. Provide plans that show; (1) drainage within the covered parking are piped to the sanitary sewer system via an API or CPS-type oil/water separator as approved by the City Building Official, (2) an automatic or manual shut-off valve designed to prevent spills from entering the sanitary sewer system, are installed in the discharge line prior to the connection with the public sanitary sewer; (3) areas immediately adjacent to any opening in the structure where precipitation may fall, track, or be blown into the covered parking, are either reverse-graded, trench drained, or bermed from other portions of the facility, to minimize the amount of stormwater being transported beneath the cover. The parking structure cover must have a minimum overhang of 5 feet on each side as measured relative to a berm, trench drain, or pavement grade break. (Site Development Div./JJD)
19. Submit to the City a copy of issued permits or other approvals needed from Washington County for work within, and/or construction access to the Barnes Road, Cedar Hills Boulevard, and other required off-site improvement work within County controlled right of way. (Site Development Div./JJD)
20. Submit to the City a copy of issued permits or other approvals needed from the State of Oregon Department of Transportation (ODOT) for work within, and/or construction access to the Sunset Highway and any required off-site improvement work within ODOT controlled land. (Site Development Div./JJD)
21. Have obtained the Tualatin Valley Fire and Rescue District Fire Marshal's approval of the site development plans. (Site Development Div./JJD)
22. Submit a copy of issued permits or other approvals needed from the Tualatin Valley Water District for public water system construction, backflow prevention facilities, and service extensions. (Site Development Div./JJD)
23. Submit a detailed water supply analysis (Fire Flow) to the City Building

Official in accordance with the requirements of the Fire Code as adopted by the Tualatin Valley Fire and Rescue. (Site Development Div./JJD)

24. Submit a copy of issued permits or other approvals needed from the Clean Water Services District for storm system connections. (Site Development Div./JJD)
25. Submit a completed 1200-C General Permit (DEQ/CWS/City Erosion Control Joint Permit) application to the City. (Site Development Div./JJD)
26. Submit fully engineered plans for the storm system improvements as conceptually described in the Storm Drainage Feasibility Study dated May 4, 2006. The final engineering shall examine the existing downstream public storm system in Barnes Road west of the site to the outfall on Johnson Creek. Construction plans shall be prepared and the affected existing storm system shall be modified as determined by the City Engineer to provide for sufficient capacity (both conveyance and treatment via StormFilters to 3 cartridges per impervious acre with pre-treatment) to serve all tributary areas in both the existing and future conditions. Additional capacity and modifications to the existing system and possible additional on-site detention will be required beyond the City's Engineering Design Manual criteria for storm water event and the 2 year design event in order to mitigate the effects of lengthened periods of additional flow volume. (Site Development Div./JJD)
27. Submit to the City a certified impervious surface determination of the proposed project's net new impervious area proposed for any common areas and private streets prepared by the applicant's engineer, architect, or surveyor. The certification shall consist of an analysis and calculations determining the square footage of all impervious surfaces as a total for the common areas and private streets. In addition, specific types of impervious area totals, in square feet, shall be given for parking lots and driveways, sidewalk and pedestrian areas, and any gravel surfaces. Calculations shall also indicate the square footage of pre-existing impervious surface, the new impervious surface area created, and total final impervious surface area on the entire site or individual lots if applicable. (Site Development Div./JJD)
28. Pay a storm water system development charge (overall system conveyance) for the net new impervious area proposed for any common areas or private streets. The project shall be eligible for a storm water system development charge credit equal to the estimated construction cost value of extra capacity improvements as determined and administered by the City Utilities Engineer. (Site Development Div./JJD)
29. Submit a copy of issued permits or other approvals needed from the State of Oregon Division of State Lands and the United States Army Corps of Engineers (for work within a jurisdictional wetland). (Site Development Div./JJD)
30. Provide plans showing a Stormfilter system (for treatment of the site's piped



surface water runoff) with a minimum of 3.0 cartridges per full tributary impervious acre. Plans shall also show a trash capture water quality pre-treatment unit (ex: CDS manhole, Snout installation or City of Beaverton approved equivalent as determined by City Engineer) located in front any Stormfilter vaults or ahead of covered subsurface detention systems. Plans shall also show a high flow bypass system to bypass surface water runoff high flows (flows greater than the 5-year design storm) around any Stormwater vaults. (Site Development Div./JJD)

31. Submit a geotechnical and geo-environmental report with the site development permit application for review and approval by the City Engineer. The report shall include an assessment of the soil and any ground/surface water issues, remediation methods, compaction specifications, and other special construction requirements. It shall be prepared by a professional engineer or registered geologist to the specifications of the City Engineer. (Site Development Div./JJD)
32. Provide plans for the placement of underground utility lines along street frontages, within the site, and for services to the proposed new development. Where existing utility poles along existing street frontages must be moved to accommodate the proposed improvements, the affected lines must be either undergrounded or a fee-in-lieu of undergrounding be paid per Section 60.65 of the Development Code. (Site Development Div./JJD)
33. Provide plans showing a City standard commercial driveway apron or an approved County equivalent portland-cement concrete driveway apron at the intersection of any private, common driveway and a public street. (Operations Dept./SB, Site Development Div./JJD)
34. Provide plans showing a pedestrian crossing located across the western private access drive, connecting Choban Lane to a pedestrian route that shall be provided to the parking garage, with appropriate internal pedestrian connection provided within the garage. Such revisions shall be made as necessary to the landscape plan to create the sidewalk or walkway that is necessary along the west building elevation of the garage to provide access to the crossing. The design of the pedestrian crossing and walkway shall be in substantial conformance with the requirements of the City Development Code Section 60.05.20.3.E. (Development Services / JO)

**Prior to building permit issuance, the applicant shall:**

35. Ensure that Design Review approval has not expired. In accordance with Section 50.90.1 of the Development Code, Design Review approval shall expire after two (2) years from the date of approval unless prior to that time a construction permit has been issued and substantial construction pursuant thereto has taken place, or an application for extension is filed pursuant to Section 50.93, or that authorized development has otherwise commenced in accordance with Section 50.90.3.B. (Development Services / JO)

36. Comply with the State of Oregon Building Code in effect as of date of application for the building permit, including the following: (1) The 2003 edition of the International Building Code as published by the International Code Conference and amended by the State of Oregon; (2) 2003 International Mechanical Code as published by the International Code Council and amended by the State of Oregon; (3) the 2003 edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and amended by the State of Oregon; (4) the 2005 edition of the National Electrical Code as published by the National Fire Protection Association and amended by the State of Oregon; and (5) the 2003 International Fire Code as published by the International Code Council as amended by Tualatin Valley Fire and Rescue. (BR/Building Division)
37. Provide written evidence that the haulers of waste and recycled materials have established recommendations with regard to the location, design and access to on-site solid waste facilities. Such recommendations shall be incorporated into the building and site design, as shown on building permit plans, as evidence of consistency with the requirements of Washington County Development Code Sec. 406.6. (JO/Development Services)
38. Provide an adequate travel pedestrian route within the parking structure by the placement of wheel stops to provide for vehicle stall depth of 15.5 feet. This requirement applies to all parking spaces along the interior eastern-most parking row, except where parking spaces may be superseded by handicapped parking space dimension requirements administered under the Building Code. (JO/Development Services)
39. Obtain the issuance of site development permit from the Site Development Division. (Site Development Div./JJD)
40. Install all mandated erosion control measures to achieve City inspector approval at least 24 hours prior to call for foundation footing form inspection from the Building Division. (Site Development Div./JJD)
41. Submit to the City, as part of the site development permit, a certified impervious surface determination of the proposed project prepared by the applicant's engineer, architect, or surveyor. The certification shall consist of an analysis and calculations determining the square footage of all impervious surfaces as a total. In addition, specific types of impervious area totals, in square feet, shall be given for roofs, parking lots and driveways, sidewalk and pedestrian areas, and any gravel surfaces. Calculations shall also indicate the square footage of pre-existing impervious surfaces, the new impervious surface area created, and total final impervious surfaces areas on the entire site or individual tax lots if applicable. (Site Development Div./JJD)
42. Pay a storm water system development charge (overall system conveyance) for the net new impervious area proposed. (Site Development Div./JJD)
43. Submit a completed Landscape Tree mitigation worksheet and mitigation

tree planting plan showing compliance with the numerical mitigation requirements of Section 60.60.25.9.C. (Development Services / JO)

**Prior to building occupancy permit issuance, the applicant shall:**

44. Ensure all site improvements, including grading and landscaping is completed in accordance with approved plans. (Development Services / JO)
45. Ensure all construction is completed in accordance with the approved Materials and Finishes form and Materials Board. (Development Services / JO)
46. Ensure construction of all buildings, walls, fences and other structures are completed in accordance with the approved building elevations and plans. (Development Services / JO)
47. Ensure all landscaping, including fencing, landscape planters and walls approved by the decision making authority are installed unless a performance security, equal to 110 percent of the cost of the landscaping not so installed, is filed with the City assuring such installation within six months of occupancy. All performance securities submitted shall itemize the landscape elements in terms of cost of materials and labor. (Development Services / JO)
48. Ensure that the planting of all approved deciduous trees, except for street trees or vegetation approved in the public right-of-way, has occurred. Deciduous trees as proposed in the Landscape Plan, other than Landscaped Tree mitigation, shall have straight trunks and be fully branched, with a minimum caliper of 2.5 inches and a minimum height of 10 feet at the time of planting, except Vine Maple at smaller caliper size. Dwarf and compact varieties may be may be approved by the Board of Design Review at any size. Deciduous trees may be supplied bare root provided the roots are protected against damage. Each tree is to be adequately staked. (Development Services / JO)
49. Trees planted as mitigation for removed Landscape Trees shall be provided consistent with the approved Tree Mitigation Plan and Landscape Plan. (Development Services / JO)
50. Ensure that the planting of approved street trees and vegetation or the pruning thereof, within the public right-of-way or public easements, has occurred in accordance with the City Tree Planting & Maintenance Policy (Resolution 3391). The provisions for acceptance of a performance security, meeting the requirement for landscaping, shall also apply to the planting of street trees approved through the Design Review process. (Development Services / JO)
51. Ensure coniferous trees, having been balled and burlapped or grown within suitable containers for one year, are planted. Each coniferous tree shall be

planted at the following heights as proposed in the Landscape Plan: Douglas-fir: 8 feet, Austrian Pine: 10 feet, and Hogan Cedar: 6 feet in height. Additional dwarf and compact varieties may be approved by the Board of Design Review at any size. All trees shall be fully branched and adequately staked at the time of planting. (Development Services / JO)

52. Ensure ground cover plantings are installed at a minimum of 1 gallon pots with 24 inch spacing, or 2 gallon pots with 36 inch spacing. Rows of plants are to be staggered for a more effective covering. (Development Services / JO)
53. Ensure deciduous or evergreen shrubs are installed as proposed in the Landscape Plan at a minimum 5 gallon container size, or are otherwise planted at a growth height or spread of 18 inches. All plants shall be in containers or be in burlap balls. (Development Services / JO)
54. Ensure landscaped areas approved to be planted in lawn have sod installed between November 1 and March 1, and between June 1 and September 1 of the year. Grass seed is approved as an option at other times of the year. Sod may be placed at any time of year. This condition is not applicable to special seed mixes approved for use in natural resource areas, steep slopes, or in areas for the primary purpose of erosion control. (Development Services / JO)
55. Ensure off-street parking, loading and driveway areas are screened from streets and surrounding properties with landscape areas containing approved plant material with a minimum height, achieved after one year of growth, of 30 inches. Where landscaped berms, walls, raised planters or similar features of at least 30 inches in height have been approved to screen streets and surrounding properties, the plant materials are not required. (Development Services / JO)
56. Ensure all landscape areas are served by an underground landscape irrigation system. For approved xeriscape (drought-tolerant) landscape designs and for the installation of native or riparian plantings, underground irrigation is not required provided that temporary above-ground irrigation is provided for the establishment period. (Development Services / JO)
57. Ensure all rooftop mechanical equipment and similar features are screened from public view, as viewed from abutting streets and sidewalks, or placed within the building, or are otherwise made an integral part of the structure. Rooftop screening where visible, shall consist of at least one material and color used on building elevations. (Development Services / JO)
58. Fence materials used in the outdoor garden and sales area shall consist of metal fence posts and railings consistent with that shown on Sheets A-2 and A-3 of the building elevation drawings. Chain-link fencing is not approved for use in the outdoor sales or garden area.
59. Provide a signed City of Beaverton Trespass Agreement including signature of the property owner, or that signature of a Wal-Mart representative authorized

by the property owner. The Agreement shall be submitted in a form acceptable to the City Attorney. (JO/Development Services)

60. Provide on-site parking lot and parking structure signing notifying customers and the public that overnight camping or similar trespass, is prohibited. (JO/Development Services)
61. Provide an easement granting public access along the site access road between Barnes Road and Choban Lane. (RW/ Transportation)
62. Record a provision preventing vehicular access to or from the site along SW Barnes Road and SW Cedar Hills Boulevard frontage, except at the proposed access points approved in conjunction with this land-use application. (RW/ Transportation)
63. Provide evidence that payment in the amount of \$62,500 has been made to the City of Beaverton as a contribution toward the future construction of a pathway under-crossing at the westbound on-ramp to Highway 26. (RW/ Transportation)
64. Complete construction of all improvements shown in Conditions 3 and 4. (RW/ Transportation)
65. Close the existing driveway from Tax Lot 1S103BA-01200 to Barnes Road. (RW/ Transportation)
66. Have substantially completed the site development improvements as determined by the City Engineer, streetlights being fully functional. (Site Development Div./JJD)
67. Have placed underground all existing overhead utilities and any new utility service lines within the project and along any existing street frontage as determined at Site Development permit issuance. (Site Development Div./JJD)
68. Install or replace, to City specifications, all sidewalks which are missing, damaged, deteriorated, or removed by construction. (Site Development Div./JJD)
69. Have obtained an Industrial Sewage Permit from the Clean Water Services District (CWS) and submitted a copy to the City Building Official if an Industrial Sewage permit is required, as determined by CWS. (Site Development Div./JJD)
70. Have the covered parking drainage system containment and oil/water separator verified as being fully operational. Submit verification of appropriate sign installation and employee training regarding spill clean-up in the parking area and the function of the drainage system shut-off valve in addition to appropriate spill response supplies, such as absorbent material, being stored continuously on site. (Site Development Div./JJD)

**Prior to release of performance security, the applicant shall:**

71. Have completed the site development improvements as determined by the City Engineer and met all outstanding conditions of approval as determined by the City Engineer and Planning Director. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div./JJD)
72. Submit any required on-site easements, executed and ready for recording, to the City after approval by the City Engineer for area encumbered and City Attorney as to form. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet City standards. (Site Development Div./JJD)
73. Provide an additional performance security for 100 percent of the cost of twice-a-year (6-month interval) cleaning, maintenance, and filter recharge/replacement by Stormwater360, Inc., for the StormFilter cartridges for a two-year period, as determined by the City Utilities Engineer. Alternatively, provide evidence satisfactory to the City Utilities Engineer of a pre-paid service contract with Stormwater360, Inc., for maintenance of the StormFilters consisting of cartridge replacement and sediment removal per manufacturer's recommendations for a two year period from the date of performance acceptance of each respective system. (Site Development Div./JJD)
74. Provide an additional performance security for 100 percent of the cost of plants, planting materials, and any maintenance labor (including irrigation) necessary to achieve establishment of the vegetation and slope stabilization within the storm drain outfall area, as determined by the City Engineer and Clean Water Services. If the plants are not well established (as determined by the City Engineer and City Operations Director) within a period of two years from the date of substantial completion, a plan shall be submitted by the engineer of record and landscape architect (or wetland biologist) that documents any needed remediation. The remediation plan shall be completely implemented and deemed satisfactory by the City Operations Director prior to release of the security. (Site Development Div./JJD)
75. Submit a report to the Director, prepared by a Lighting Engineer certified in the State of Oregon, that provides the results of at least one test of on-site illumination levels, and results of evaluation of views of direct and indirect glare from on-site and off-site locations within 100 feet of the property line, as measured against the applicable City Technical Lighting Standards of Table 60.05-1, of the Development Code. If in the event the test results show that the applicable Code standards are not met, the property owner shall submit to the City the following:

- (1) A report by the Lighting Engineer that identifies the shortcomings of the Lighting Plan in meeting the Technical Lighting standards, and which proposes specific installations or modifications of the Lighting Plan to ensure conformance to the Technical Lighting standards, and
- (2) A performance security payable to the City of Beaverton, to cover the complete dollar cost of materials and labor necessary, plus 10 percent of the total cost, for the City to hire a private firm at prevailing Davis–Bacon wages, to install and modify such light poles, light fixtures and light shields as called for by the Lighting Engineers report under (1) above. Such performance security shall be held by the City for a period of sixty (60) days to allow the applicant, under the supervision of the lighting engineer, to perform the installations or modifications as called for by the Lighting Engineer to meet the City Technical Lighting standards. After 60 days, the Director may use the performance security to ensure that measures are taken to ensure that on-site lighting meets the Technical Lighting Standards of Table 60.05-1. (Development Services / JO)

**CARRIED** by the following vote:

**AYES:** Soth, King, Nye, Scott, Steiger, and Doukas.

**NAYS:** Beighley.

**ABSTAIN:** None.

**ABSENT:** None.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

To appeal the decision of the Board of Design Review, as articulated in Land Use Order No. 1871, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on \_\_\_\_\_, 2006.

BOARD OF DESIGN REVIEW  
FOR BEAVERTON, OREGON:

ATTEST:

APPROVED:

\_\_\_\_\_  
JOHN OSTERBERG  
Senior Planner

\_\_\_\_\_  
MIMI DOUKAS  
Chair

\_\_\_\_\_  
STEVEN A. SPARKS, AICP  
Development Services Manager